

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Tamatha M. Bechtold, as Trustee
for the Heirs and Next of Kin of
Mitchel Raymond Hiltner, Decedent,

Case No. 20-cv-1855-WMW-LIB

Plaintiff,

vs.

City of St. Cloud, Minnesota;
Matthew Riekana, individually and in
his capacity as a St. Cloud police officer;
Erik Wilson, individually and in his
capacity as a St. Cloud police officer;
Brandon Merklings, individually and in
his capacity as a St. Cloud police officer;
and Jared Rathburn, individually and in his
capacity as a St. Cloud police officer,

**DEFENDANTS'
STATEMENT OF THE CASE**

Defendants.

COMES NOW, Defendants, the City of St. Cloud, Matthew Riekana, Erik Wilson,
Brandon Merklings and Jared Rathburn, and make the following as their Statement of Case:

a. Defendants' version of the facts of the case.

On August 26, 2018, officers were dispatched to a home associated with drug use on a report that Mitchel Hiltner was experiencing an asthma attack. When officers arrived, Hiltner violently resisted, striking both an officer and a firefighter, who were attempting to restrain him in order to provide medical care. When backup arrived, officers attempted to escort Hiltner out of the residence to an ambulance. However, Hiltner failed to comply with commands and resisted by striking an officer in the face with a closed fist, pulling his arms away from officers, tossing the officers side-to-side, and kicking at the officers. As a result, Hiltner was tased, taken to the ground, and a WRAP restraint was being applied when it was discovered Hiltner was in cardiac arrest. The WRAP restraint was immediately removed, and medical aid was provided. Hiltner died 14 days later.

Defendants deny that excessive force was utilized to control the physically resistant Hiltner and deny that Hiltner's death and damages allegedly resulted from the officers' use of force.

b. A listing of particularized facts which support the claimed liability or defenses, including any applicable statutes as identified by number.

Plaintiff has failed to state a constitutional violation. Pursuant to case law, Officers Matthew Riekena, Erik Wilson, Brandon Merkling and Jared Rathbun's use of force was reasonable in light of Hiltner's resistance to arrest. Plaintiff's claims are barred by qualified immunity, official immunity, and vicarious official immunity. In addition to denying constitutional violations, Defendants deny the City had an unconstitutional policy, custom or practice involving the use of Tasers and WRAP restraints. Further, Defendants deny that the City failed to adequately train the officers.

c. An itemization and explanation of any claimed damages.

Plaintiff seeks monetary damages for Mitchel Hiltner's death. Defendants deny that the claimed injuries resulted from the officers' use of force. Additional information regarding damages presumptively is available from Plaintiff.

Dated: 12/4/2020

JARDINE, LOGAN & O'BRIEN, P.L.L.P.

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